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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/976,536	10/12/2001	Jason T. Griffin	1578.025 (10120-US-CIP2)	2444
44208	7590	06/12/2008	EXAMINER	
DOCKET CLERK PO BOX 12608 DALLAS, TX 75225			NGUYEN, KIMNHUNG T	
			ART UNIT	PAPER NUMBER
			2629	
			MAIL DATE	DELIVERY MODE
			06/12/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/976,536	<b>Applicant(s)</b> GRIFFIN ET AL.	
	<b>Examiner</b> KIMNHUNG NGUYEN	<b>Art Unit</b> 2629	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 February 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 44,45,47-81,84,86-104 and 106-108 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 44,45,47-81,84 and 86-103 is/are allowed.
- 6) ☒ Claim(s) 104 and 106-108 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/29/08 has been entered.
2. This application has been examined. The claims 44-45, 47-81, 84, 86-104, 106-108 are pending. The examination results are as following.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 104 and 107-108 are rejected under 35 U.S.C. 102(e) as being anticipated by Lieberman et al. (US 6,385,463).

As to claim 104, Lieberman teaches a handheld dual mode device operable by a user and capable of voice communication (first mode) and data communication (second mode), the dual-mode comprising a device comprising an integrated device housing having a single, continuous

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front surface within which are mounted(fig. 3), and through which extend, a display and one, complete-alphanumeric keyboard laid out in the QWERTY style (126, alphanumeric keys (see figs 1,3, col. 3,lines 29-65; col. 4,lines 34-38 and col. 5, lines 16-32), said keyboard being located below the display, said front surface including therein a speaker (118) above the display and a microphone (116, fig. 1) that is an inherent located below the complete, alphanumeric QWERTY- style keyboard, said housing also having a longer dimension and shorter dimension, the longer dimension defining a major axis.

As to claim 107, Lieberman et al. teach a speaker (118), mounted above the display (120, fig. 3).

As to claim 108, Lieberman et al. disclose a microphone mounted at the front surface of the device, permitting use by the user pursuant to the voice communication (first mode) and the data communication (second mode) while maintaining the device housing in a common orientation (see figure 3, col. 5, lines 15-31).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 106 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lieberman et al. (US 6,385,463) in view of Lichtenberg (US 5,336,001).

Lieberman fail to disclose the keys configured along a concave arc across the front surface of the device housing and the QWERTY keyboard having three rows of keys.

Lichtenberg teaches a QWERTY keyboard having three rows of keys and the keys configured along a concave arc across the front surface of the device (see figures 4-6; column 1, lines 10-26; column 5, lines 40-68 and column 6, lines 1-30).

It would have been obvious to have to have the three rows of keys and the keys configured along a concave arc across the front surface of the device as taught by Lichtenberg into the handheld dual mode mobile communication of Lieberman for producing the claimed invention because this would provide to maximizes the operator's comfort and increase the operator's speed and efficiency (see col. 2, lines 24-41).

***Allowable Subject Matter***

7. Claims 44-45, 47-81, 84, 86-103 are allowed.

The following is a statement of reasons for the indication of allowable subject matter: None of the cited art teaches or suggests that the apparatus for a dual mode mobile communication device comprising the first dimension defining a major axis extending between a top side surface and a bottom side surface of the housing, the second dimension defining a manor axis between a left side surface and a right side surface, said top side surface and said bottom side surface being substantially parallel to each other and substantially orthogonal to said continuous single front surface and to the left and right side surfaces, said housing also having a single rear surface as claim 44.

***Correspondence***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KIMNHUNG NGUYEN whose telephone number is (571)272-7698. The examiner can normally be reached on MON-FRI, FROM 8:30 AM-5:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Hjerpe can be reached on (571) 272-7691. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kimnhung Nguyen/  
Examiner, Art Unit 2629  
June 5, 2008

/Richard Hjerpe/  
Supervisory Patent Examiner, Art Unit 2629